

from the date of the notice, either to pay the amount assessed or to provide evidence that the amount paid was correct. If the IFQ Allocation permit holder submits evidence in support of the appropriateness of his/her payment, the Regional Administrator shall determine whether there is a reasonable basis upon which to conclude that the amount of the tendered payment is correct. This determination shall be in set forth in a Final Administrative Determination (FAD) that is signed by the Regional Administrator. A FAD shall be the final decision of the Department of Commerce. If the Regional Administrator determines that the IFQ Allocation permit holder has not paid the appropriate fee, he/she shall require payment within 30 days of the date of the FAD. If a FAD is not issued until after the start of the fishing year, the IFQ Allocation permit holder may be issued a letter of authorization to fish until the FAD is issued, at which point the permit holder shall have 30 days to comply with the terms of the FAD or the tilefish IFQ Allocation permit shall not be issued, and the letter of authorization shall not be valid until such terms are met. Any tilefish landed pursuant to the above authorization will count against the IFQ Allocation permit, if issued. If the Regional Administrator determines that the IFQ Allocation permit holder owes additional fees for the previous cost-recovery billing period, and the renewed IFQ Allocation permit has already been issued, the Regional Administrator shall issue a FAD and will notify the IFQ Allocation permit holder in writing. The IFQ Allocation permit holder shall have 30 days from the date of the FAD to comply with the terms of the FAD. If the IFQ Allocation permit holder does not comply with the terms of the FAD within this period, the Regional Administrator shall rescind the IFQ Allocation permit until such terms are met. If an appropriate payment is not received within 30 days of the date of a FAD, the Regional Administrator shall refer the matter to the appropriate authorities within the U.S. Department of the Treasury for purposes of collection. No permanent or temporary IFQ allocation transfers may be made to or from the allocation of an IFQ Allocation

permit holder who has not complied with any FAD. If the Regional Administrator determines that the terms of a FAD have been met, the IFQ Allocation permit holder may renew the tilefish IFQ Allocation permit. If NMFS does not receive full payment of a recoverable cost fee prior to the end of the cost-recovery billing period immediately following the one for which the fee was incurred, the subject IFQ Allocation permit shall be deemed to have been voluntarily relinquished pursuant to paragraph (b)(7) of this section.

(4) *Periodic review of the IFQ program.* A formal review of the IFQ program must be conducted by the Council within 5 years of the effective date of the final regulations. Thereafter, it shall be incorporated into every scheduled Council review of the FMP (i.e., future amendments or frameworks), but no less frequently than every 7 years.

[74 FR 42599, Aug. 24, 2009]

#### § 648.292 [Reserved]

#### § 648.293 Tilefish trip limits.

Any vessel of the United States fishing under a tilefish permit, as described at § 648.4(a)(12), is prohibited from possessing more than 300 lb (138 kg) of tilefish at any time, unless the vessel is fishing under a tilefish IFQ Allocation permit, as specified at § 648.291(a). Any tilefish landed by a vessel fishing under an IFQ Allocation permit, on a given fishing trip, count as landings under the IFQ Allocation permit.

[74 FR 42603, Aug. 24, 2009]

#### § 648.294 Framework specifications.

(a) *Within-season management action.* The Council may, at any time, initiate action to add or adjust management measures if it finds that action is necessary to meet or be consistent with the goals and objectives of the Tilefish FMP.

(1) *Specific management measures.* The following specific management measures may be adjusted at any time through the framework process:

- (i) Minimum fish size;
- (ii) Minimum hook size;

- (iii) Closed seasons;
  - (iv) Closed areas;
  - (v) Gear restrictions or prohibitions;
  - (vi) Permitting restrictions;
  - (vii) Gear limits;
  - (viii) Trip limits;
  - (ix) Overfishing definition and related thresholds and targets;
  - (x) Annual specification quota setting process;
  - (xi) Tilefish FMP Monitoring Committee composition and process;
  - (xii) Description and identification of EFH;
  - (xiii) Fishing gear management measures that impact EFH;
  - (xiv) Habitat areas of particular concern;
  - (xv) Set-aside quotas for scientific research;
  - (xvi) Changes to the Northeast Region SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, reports, and/or industry-funded observers or observer set-aside programs;
  - (xvii) Recreational management measures, including the bag-size limit, fish size limit, seasons, and gear restrictions or prohibitions; and
  - (xviii) IFQ program review components, including capacity reduction, safety at sea issues, transferability rules, ownership concentration caps, permit and reporting requirements, and fee and cost-recovery issues.
- (2) *Adjustment process.* If the Council determines that an adjustment to management measures is necessary to meet the goals and objectives of the FMP, it will recommend, develop, and analyze appropriate management actions over the span of at least two Council meetings. The Council will provide the public with advance notice of the availability of the recommendation, appropriate justifications and economic and biological analyses, and opportunity to comment on the proposed adjustments prior to and at the second Council meeting on that framework action. After developing management actions and receiving public comment, the Council will submit the recommendation to the Regional Administrator; the recommendation must include supporting rationale, an analysis of impacts, and a recommendation on

whether to publish the management measures as a final rule.

(3) *Council recommendation.* After developing management actions and receiving public testimony, the Council will make a recommendation to the Regional Administrator. The Council's recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts and a recommendation to the Regional Administrator on whether to issue the management measures as a final rule. If the Council recommends that the management measures should be issued as a final rule, it must consider at least the following factors and provide support and analysis for each factor considered:

- (i) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season.
- (ii) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Council's recommended management measures.
- (iii) Whether there is an immediate need to protect the resource.
- (iv) Whether there will be a continuing evaluation of management measures adopted following their implementation as a final rule.

(4) *Regional Administrator action.* If the Council's recommendation includes adjustments or additions to management measures and, after reviewing the Council's recommendation and supporting information:

- (i) If the Regional Administrator concurs with the Council's recommended management measures and determines that the recommended management measures should be issued as a final rule based on the factors specified in paragraph (a)(2) of this section, the measures will be issued as a final rule in the FEDERAL REGISTER.
- (ii) If the Regional Administrator concurs with the Council's recommendation and determines that the recommended management measures should be published first as a proposed rule, the measures will be published as

## Fishery Conservation and Management

## § 648.320

a proposed rule in the FEDERAL REGISTER. After additional public comment, if the Regional Administrator concurs with the Council's recommendation, the measures will be issued as a final rule in the FEDERAL REGISTER.

(iii) If the Regional Administrator does not concur with the Council's recommendation, the Council will be notified in writing of the reasons for the non-concurrence.

(b) *Emergency action.* Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

[74 FR 42603, Aug. 24, 2009]

### § 648.295 Recreational possession limit.

Any person fishing from a vessel that is not fishing under a tilefish vessel permit issued pursuant to §648.4(a)(12), may land up to eight tilefish per trip. Anglers fishing onboard a Charter/Party vessel shall observe the recreational possession limit.

[74 FR 42603, Aug. 24, 2009]

### § 648.296 Gear restricted areas.

No vessel of the United States may fish with bottom-tending mobile gear within the areas bounded by the following coordinates:

| Canyon              | N. Lat. |      |         | W. Long. |      |         |
|---------------------|---------|------|---------|----------|------|---------|
|                     | Degrees | Min  | Seconds | Degrees  | Min  | Seconds |
| Oceanographer ..... | 40.0    | 29.0 | 50.0    | 68.0     | 10.0 | 30.0    |
|                     | 40.0    | 29.0 | 30.0    | 68.0     | 8.0  | 34.8    |
|                     | 40.0    | 25.0 | 51.6    | 68.0     | 6.0  | 36.0    |
|                     | 40.0    | 22.0 | 22.8    | 68.0     | 6.0  | 50.4    |
|                     | 40.0    | 19.0 | 40.8    | 68.0     | 4.0  | 48.0    |
|                     | 40.0    | 19.0 | 5.0     | 68.0     | 2.0  | 19.0    |
|                     | 40.0    | 16.0 | 41.0    | 68.0     | 1.0  | 16.0    |
|                     | 40.0    | 14.0 | 28.0    | 68.0     | 11.0 | 28.0    |
| Lydonia .....       | 40.0    | 31.0 | 55.2    | 67.0     | 43.0 | 1.2     |
|                     | 40.0    | 28.0 | 52.0    | 67.0     | 38.0 | 43.0    |
|                     | 40.0    | 21.0 | 39.6    | 67.0     | 37.0 | 4.8     |
|                     | 40.0    | 21.0 | 4.0     | 67.0     | 43.0 | 1.0     |
|                     | 40.0    | 26.0 | 32.0    | 67.0     | 40.0 | 57.0    |
|                     | 40.0    | 28.0 | 31.0    | 67.0     | 43.0 | 0.0     |
| Veatch .....        | 40.0    | 0.0  | 40.0    | 69.0     | 37.0 | 8.0     |
|                     | 40.0    | 0.0  | 41.0    | 69.0     | 35.0 | 25.0    |
|                     | 39.0    | 54.0 | 43.0    | 69.0     | 33.0 | 54.0    |
|                     | 39.0    | 54.0 | 43.0    | 69.0     | 40.0 | 52.0    |
| Norfolk .....       | 37.0    | 5.0  | 50.0    | 74.0     | 45.0 | 34.0    |
|                     | 37.0    | 6.0  | 58.0    | 74.0     | 40.0 | 48.0    |
|                     | 37.0    | 4.0  | 31.0    | 74.0     | 37.0 | 46.0    |
|                     | 37.0    | 4.0  | 1.0     | 74.0     | 33.0 | 50.0    |
|                     | 36.0    | 58.0 | 37.0    | 74.0     | 36.0 | 58.0    |
|                     | 37.0    | 4.0  | 26.0    | 74.0     | 41.0 | 2.0     |

[74 FR 42603, Aug. 24, 2009]

## Subpart O—Management Measures for the NE Skate Complex Fisheries

SOURCE: 68 FR 49701, Aug. 19, 2003, unless otherwise noted.

### § 648.320 Skate FMP review and monitoring.

(a) *Annual review and specifications process.* The Council, its Skate Plan De-

velopment Team (PDT), and its Skate Advisory Panel shall monitor the status of the fishery and the skate resources.

(1) The Skate PDT shall meet at least annually to review the status of the species in the skate complex. At a minimum, this review shall include annual updates to survey indices, fishery landings and discards; a re-evaluation of stock status based on the updated